In the Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-708

MANUEL NOA AND RENE A. ROSQUETTE, PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

After a jury trial with others in the United States District Court for the Southern District of Florida, petitioners were convicted on five counts charging them with heroin violations under 21 U.S.C. (1964 ed.) 174, 26 U.S.C. (1964 ed.) 4704(a) and 4705(a). The court of appeals affirmed in a lengthy opinion (Pet. App. A 1-15) and thereafter denied a petition for rehearing on July 18, 1972 (Pet. App. B 17-18). The petition for a writ of certiorari was not filed until November 9, 1972, and is therefore almost three months out of time under Rule 22(2) of the Rules of this Court. There is, in any event, no reason to grant the writ.

492-240—72

Petitioners' sole contention is that reversal is required because of an allegedly prejudicial answer given on cross-examination by a government agent (see Pet. 4). This claim presents no issue of general importance and is fully answered in the opinion below, on which we primarily rely (Pet. App. A 11), which explains why the answer was invited by the line of inquiry petitioners' counsel was pursuing.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

EDWIN N. GRISWOLD,
Solicitor General.

JANUARY 1973.

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